

North Yorkshire Council

Environment Executive Members

18 December 2023

Changes to Services to be delivered by Yorwaste Ltd using the 'Teckal' Procurement Exemption

Report of the Head of Service - Waste

1.0 PURPOSE OF REPORT

- 1.1 To inform the Executive Member for Managing our Environment and the Assistant Director Environmental Services and Climate Change of proposed changes to services to be delivered by Yorwaste Limited through a directly awarded contract using the 'Teckal' procurement exemption.
- 1.2 To inform Executive Members and the Assistant Director - Environmental Services and Climate Change of the mechanisms by which those changes are to be implemented.
- 1.3 To seek the necessary approvals to implement the changes and vary the Services Contract with Yorwaste Limited.

2.0 BACKGROUND

- 2.1 On 18 March 2014, the North Yorkshire County Council ("NYCC") Executive agreed:
 - The principle of awarding relevant contracts for future waste services to Yorwaste Limited ("Yorwaste") without competitive procurement, where the conditions for the Teckal exemption are satisfied.
 - To delegate authority to the Corporate Director (BES) to determine which future waste service contracts are to be awarded to Yorwaste.
- 2.2 To be able to use the Teckal exemption, Yorwaste has to satisfy the following requirements (in accordance with the Public Contracts Regulations 2015 ("PCRs") regulation 12):
 - The Contracting Authorities who are the shareholders of the company must exercise the same level of control over the company as they do over their own departments (known as the "Control test"). The North Yorkshire Council ("NYC" or the "Council") and City of York Council ("CYC") are the shareholders of the company and collectively have more than 50% of the voting directors on the board; and
 - A minimum of 80% of the turnover of the company must be generated from work delivered to its shareholders (the 80:20 rule or the "functional test").
- 2.3 On 18 September 2015, NYCC and Yorwaste entered into a contract ("the Services Contract") for the provision of waste management services utilising the Teckal exemption. CYC and Yorwaste entered into separate services contracts at the same time. The individual services being provided are detailed in a series of schedules to the Services Contract ("Schedule"), each Schedule setting out the specification in relation to each service. The addition or removal of services is practically achieved by varying the agreement to add or remove Schedule(s).

- 2.4 A collaboration agreement was entered into between NYCC, CYC and Yorwaste on 18 September 2015 (the “Collaboration Agreement”). This provides the mechanism for collaboration in respect of waste activities across North Yorkshire and beyond. Additional Contracting Authorities wishing to join the collaboration are able to accede to the Collaboration Agreement using the process set out within the agreement. The service is then provided by the Teckal compliant company via either of the Authorities through the collaboration. Additional Contracting Authorities were some of the former district and borough councils, although this did not include Selby District Council.
- 2.5 With the formation of The North Yorkshire Council on 1 April 2023, the new North Yorkshire Council is able to directly provide services in its administrative area through the Services Contract between the Council and Yorwaste, and so Collaboration Agreements are no longer required for the former district and borough areas.
- 2.6 There is a potential conflict of interest in relation to the fact that the Corporate Director of Environment is also a Director of Yorwaste. For this reason, any Council decisions made in relation to Yorwaste were delegated to the Assistant Director of Environmental Services on 6 December 2023.

3.0 DETAILED PRESENTATION OF THE SUBSTANTIVE ISSUE

- 3.1 Prior to the formation of the new North Yorkshire Council on 01 April 2023, six District and Borough Councils all directly delivered waste and recycling services in-house. However, Selby District Council has provided these services via third party contractors since 1999. Their current contract commenced on 01 October 2009 and is due to expire on 31 March 2024.
- 3.2 The Council, as a Unitary Authority, has a duty under the Environmental Protection Act 1990 to arrange for the collection and disposal of household waste and so a suitable contract succession plan must be in place to ensure continuity of the service in the Selby area.
- 3.3 A detailed business case was produced by Selby District Council officers to inform the decision on contract succession plans. This was considered by the Selby District Council Executive on 1 September 2022 who decided not to procure a replacement service.
- 3.4 On the 20 September 2022, the NYCC Executive noted the decision of the Selby District Council Executive not to re-procure the Environmental Services Contract and approved the in-house provision by the Council of Selby’s Environmental Services from the 01 April 2024.
- 3.5 A cross-departmental working group was established to mobilise the transfer of services and one element of this is the storage, bulking, transport, sorting and sale of dry mixed recycle (DMR) collected within the Selby area.
- 3.6 The sub-group on the dry mixed recycling service considered a range of options:
- third party contracts for waste transfer station provision for receipt and bulking of DMR
 - third party contracts for haulage of the DMR to reprocessing facilities
 - third party contracts for the processing and sale of DMR
 - provision of all services by Yorwaste, through the Council’s Teckal Services Agreement.
- 3.7 Yorwaste already provide similar services to some of the former district and borough councils, either directly through Yorwaste facilities or via contracted arrangements that Yorwaste procure and manage on behalf of the Council.

- 3.8 Benchmarking on costs of the various options was carried out and analysis concluded that provision through the Teckal Service Agreement offered best value to NYC.
- 3.9 Two schedules have been developed for services within the Selby area; one for waste transfer station provision, and one for receipt, sorting and sale of DMR. Paper and cardboard will be sold directly from the waste transfer station, whilst cans, glass and plastics will be deposited at the transfer station by Selby vehicles and then bulk-hauled to Harewood Whin MRF where it will be separated into its component materials and each of those sold to reprocessors.
- 3.10 Benefits to the Council of the service being delivered by Yorwaste include:
- The certainty and control that go with delivering services through a company owned by the Council.
 - No requirement to carry out a procurement exercise and avoids the cost that goes with that.
 - The householder will not see any change in the collection of their recycling materials, but if the Council does decide to change collection methodology in future to support countywide harmonisation of services and to achieve the aims of Simpler Recycling, then a contract with Yorwaste provides better flexibility on changes to service.
 - Contributes to contract management overheads.
 - Increases the 80% public sector work enabling Yorwaste to increase the 20% share of the business.

4.0 ALTERNATIVE OPTIONS CONSIDERED

- 4.1 Options to provide the services through third party contracts were considered and discounted as information and benchmarking from existing contracts used by the former district and borough areas, demonstrated that the charges by Yorwaste and anticipated income for the sale of DMR provided best value to the Council.
- 4.2 Utilising the Teckal compliant Services Contract also removes the cost and time attached to the complex procurement of multiple services, when similar arrangements are already provided to the Council by the Teckal company.

5.0 IMPACT ON OTHER SERVICES/ORGANISATIONS

- 5.1 The Selby District Environmental Services contract expires on 31 March 2024. Bulking, haulage and processing of dry mixed recycling is included within that contract and those third-party contracts are managed by Selby's outgoing contractor and have the same contract end date. Those organisations would therefore be aware that their access to Selby's material is not guaranteed beyond the 31st March 2024 end date, and they should have put arrangements in place to accommodate the reduced tonnage throughput on their operations.

6.0 FINANCIAL IMPLICATIONS

- 6.1 There are no procurement costs attached to using the proposed approach.
- 6.2 There may be a benefit to NYC as a result of the review of the fixed costs for the provision of waste transfer stations.
- 6.3 The overall costs of the service, when you take into account gate fees and the forecast income for the sale of the materials, is less than that currently paid by the former Selby District Council.

- 6.4 Yorwaste Limited are required under the Services Contract to show value for money in all services that they currently deliver on behalf of the Council. Both parties will monitor the new Schedules against a range of agreed performance indicators to ensure value for money is being delivered.

7.0 LEGAL IMPLICATIONS

- 7.1 As described in paragraph 2.2 above, Yorwaste is a 'Teckal' company meaning that contracts are permitted to be directly awarded to it without the need for a procurement exercise by either of its owning Authorities. The award of these additional services by NYC for the Selby area to Yorwaste is therefore compliant with Regulation 12 of the PCRs.
- 7.2 In accordance with the Council's Contract Procedure Rules, a procurement Gateway 3 report was signed on 11 September 2015 to record the decision to award the Services Contract to Yorwaste.
- 7.3 This variation to the Services Contract will require a Gateway 4(a) Contract Extension / Variation report under the Council's Contract Procedure Rules. The Gateway 4a was considered by Procurement Assurance Board on 30 November 2023 and approved.
- 7.4 Legal Services will assist with the preparation of the documentation required to vary the Services Contract, as necessary. The variation will need to be executed by both Yorwaste and the Council and comply with the change control procedures set out in the Services Contract.

8.0 EQUALITIES IMPLICATIONS

- 8.1 There are no impacts on any of the protected characteristics for equalities as a result of the matters discussed in this report. An Equalities Impact Assessment screening form is attached at Appendix A.

9.0 CLIMATE CHANGE IMPLICATIONS

- 9.1 A climate change impact assessment has been completed, attached as Appendix B.

10.0 REASONS FOR RECOMMENDATIONS

- 10.1 In order to ensure that service delivery is not interrupted within the Selby area, and to implement the Executive decision to transfer the Selby Environmental Services Contract into the Council, it is essential that bulking, haulage and reprocessing facilities are provided for the Selby area from 01 April 2024.
- 10.2 It has been determined that provision of those services by Yorwaste Limited through the Teckal compliant Services Contract provides best value to the Council.
- 10.3 The recommendations allow for the variation of the Teckal compliant Services Contract.

11.0 RECOMMENDATIONS

11.1 It is recommended that the

- i. Executive Member for Managing our Environment and the Assistant Director Environmental Services and Climate Change note the contents of the report; and
- ii. the Assistant Director - Environmental Services and Climate Change, in consultation with the Executive Member for Managing our Environment, agrees to vary the Services Contract between NYC and Yorwaste Limited to provide waste transfer station, bulking, haulage and DMR reprocessing services in the Selby area.

APPENDICES:

Appendix A – Equalities Impact Assessment screening form

Appendix B – Climate Change Impact Assessment

BACKGROUND DOCUMENTS:

[Selby Outsourced Services Model.pdf \(northyorks.gov.uk\)](#) – NYCC Executive 22 September 2022

PETER JEFFREYS

Head of Service – Waste (Contracts)

County Hall

Northallerton

04 December 2023

Report Author – Kerry Green, Contracts and Compliance Manager (waste)

Presenter of Report – Kerry Green

Contracts and Compliance Manager (Waste)

Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Initial equality impact assessment screening form			
This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate.			
Directorate	Environment		
Service area	Waste Management		
Proposal being screened	Changes to Services to be delivered by Yorwaste Ltd using the 'Teckal' Procurement Exemption		
Officer(s) carrying out screening	Kerry Green		
What are you proposing to do?	To obtain approval to vary the Yorwaste Services Contract to add new Schedules for the provision of bulking, haulage, processing, sorting and sale of recycling from the Selby area.		
Why are you proposing this? What are the desired outcomes?	To support the delivery of the transfer of Selby Environment Services contract to NYC and ensure continuity in service provision from the 1 st April 2024.		
Does the proposal involve a significant commitment or removal of resources? Please give details.	No		
Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYC's additional agreed characteristics			
As part of this assessment, please consider the following questions:			
<ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? 			
If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your directorate representative for advice if you are in any doubt.			
Protected characteristic	Potential for adverse impact		Don't know/No info available
	Yes	No	
Age		X	
Disability		X	
Sex		X	
Race		X	
Sexual orientation		X	
Gender reassignment		X	
Religion or belief		X	
Pregnancy or maternity		X	
Marriage or civil partnership		X	
People in rural areas		X	
People on a low income		X	
Carer (unpaid family or friend)		X	
Are from the Armed Forces Community		X	

Does the proposal relate to an area where there are known inequalities/probable impacts (for example, disabled people's access to public transport)? Please give details.	No			
Will the proposal have a significant effect on how other organisations operate? (for example, partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.	No			
Decision (Please tick one option)	EIA not relevant or proportionate:	<input checked="" type="checkbox"/>	Continue to full EIA:	No
Reason for decision	This relates to a variation of an existing contract and has no impact on people with protected characteristics			
Signed (Assistant Director or equivalent)	Michael Leah			
Date	1/11/2023			

Climate Change Impact Assessment

The purpose of this assessment is to help us understand the likely impacts of our decisions on the environment of North Yorkshire and on our aspiration to achieve net carbon neutrality by 2030, or as close to that date as possible. The intention is to mitigate negative effects and identify projects which will have positive effects.

This document should be completed in consultation with the supporting guidance. The final document will be published as part of the decision making process and should be written in Plain English.

If you have any additional queries which are not covered by the guidance please email climatechange@northyorks.gov.uk

Version 2: amended 11 August 2021

Please note: You may not need to undertake this assessment if your proposal will be subject to any of the following:

Planning Permission
Environmental Impact Assessment
Strategic Environmental Assessment

However, you will still need to summarise your findings in the summary section of the form below.

Please contact climatechange@northyorks.gov.uk for advice.

Title of proposal	Changes to Services to be delivered by Yorwaste Ltd using the 'Teckal' Procurement Exemption
Brief description of proposal	To obtain approval to add additional services to the Teckal Services Agreement for the provision of bulking, haulage, processing, sorting and sale of recycling from the Selby area.
Directorate	Environment
Service area	Waste Management
Lead officer	Keith Cadman, Head of Commissioning, Contracts and Procurement (Waste Selby) Peter Jeffreys, Head of Service (waste)
Names and roles of other people involved in carrying out the impact assessment	Kerry Green, Contracts and Compliance Manager (waste)
Date impact assessment started	1/11/2023

Options appraisal

Were any other options considered in trying to achieve the aim of this project? If so, please give brief details and explain why alternative options were not progressed.

The request to add additional services to the Teckal Services Agreement is to support the transfer of the Selby Environmental Services Contract into NYC and ensure continuity of service from 01 April 2024.

Various options were considered for the new service delivery model and the preferred approach was agreed by Executive on 20 September 2022. The option to bring the Selby service back in-house at contract expiry was the only one achievable within the timescale and which also offered the best platform for future service integration.

What impact will this proposal have on council budgets? Will it be cost neutral, have increased cost or reduce costs?

Please explain briefly why this will be the result, detailing estimated savings or costs where this is possible.

A financial evaluation has been carried out by Selby District Council and is contained within the North Yorkshire Waste Management New Operating Model Business Case. The evaluation concluded that transferring services to the new North Yorkshire Council at contract expiry would be cost neutral.

How will this proposal impact on the environment? N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.		Positive impact (Place a X in the box below where	No impact (Place a X in the box below where	Negative impact (Place a X in the box below where	Explain why will it have this effect and over what timescale? Where possible/relevant please include: <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	Explain how you plan to mitigate any negative impacts.	Explain how you plan to improve any positive outcomes as far as possible.
Minimise greenhouse gas emissions e.g. reducing emissions from travel, increasing energy efficiencies etc.	Emissions from travel	X			Providing a waste transfer station within Selby locality area reduces the need for multiple smaller refuse collection vehicles (RCVs) to travel to a transfer station outside of the area. Routes for RCVs have been optimised already to a delivery point within Selby locality. Bulk haulage for onward transport is more efficient.		
	Emissions from construction		X		No anticipated impact		
	Emissions from running of buildings		X		No anticipated impact as a building already exists.		
	Emissions from data storage		X		No anticipated impact		
	Other						

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p>Positive impact (Place a X in the box below where</p>	<p>No impact (Place a X in the box below where</p>	<p>Negative impact (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> Changes over and above business as usual Evidence or measurement of effect Figures for CO₂e Links to relevant documents 	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
<p>Minimise waste: Reduce, reuse, recycle and compost e.g. reducing use of single use plastic</p>	X			<p>As part of future service integration across NYC, a review of all refuse and recycling services will be undertaken. LGR also provides opportunity for increased levels of collaborative activity on recycling and waste minimisation.</p>		<p>Government's recently announced Simpler Recycling now provides the framework for harmonised services across NYC and key dates that we will work towards.</p>
<p>Reduce water consumption</p>		X		<p>No anticipated impact</p>		
<p>Minimise pollution (including air, land, water, light and noise)</p>		X		<p>No anticipated impact</p>		
<p>Ensure resilience to the effects of climate change e.g. reducing flood risk, mitigating effects of drier, hotter summers</p>		X		<p>No anticipated impact</p>		

<p>How will this proposal impact on the environment?</p> <p>N.B. There may be short term negative impact and longer term positive impact. Please include all potential impacts over the lifetime of a project and provide an explanation.</p>	<p>Positive impact (Place a X in the box below where</p>	<p>No impact (Place a X in the box below where</p>	<p>Negative impact (Place a X in the box below where</p>	<p>Explain why will it have this effect and over what timescale?</p> <p>Where possible/relevant please include:</p> <ul style="list-style-type: none"> • Changes over and above business as usual • Evidence or measurement of effect • Figures for CO₂e • Links to relevant documents 	<p>Explain how you plan to mitigate any negative impacts.</p>	<p>Explain how you plan to improve any positive outcomes as far as possible.</p>
Enhance conservation and wildlife		X		No anticipated impact		
Safeguard the distinctive characteristics, features and special qualities of North Yorkshire's landscape		X		No anticipated impact		
Other (please state below)						

Are there any recognised good practice environmental standards in relation to this proposal? If so, please detail how this proposal meets those standards.

The recently announced Simpler Recycling policies and statutory guidance will identify further best practise and minimum service standards.

Summary *Summarise the findings of your impact assessment, including impacts, the recommendation in relation to addressing impacts, including any legal advice, and next steps. This summary should be used as part of the report to the decision maker.*

Including provision of services for the Selby area within the Yorwaste Teckal Services Agreement allows North Yorkshire Council to carry out a full waste service review to ensure future services are efficient, effective and high performing. The Teckal Services Agreement allows for greater flexibility in service provision than a traditional outsourced contract and so is more reactive if future improvements to environmental performance are identified.

As the waste services harmonisation progresses, further climate change impact assessments will be carried out as appropriate and will give further detail about potential positive environmental impacts and outcomes.

Sign off section

This climate change impact assessment was completed by:

Name	Kerry Green
Job title	Contracts and Compliance Manager (waste)
Service area	Waste Management
Directorate	Environment
Signature	K Green
Completion date	1/11/2023

Authorised by relevant Assistant Director (signature): Michael Leah

Date: 6th November 2023